S.B. Civil Misc. Transfer Petition No.5/2005
Smt Padama
Vs
Arvind Solanki & Ors.

DATE OF ORDER : - 05.10.2006

HON'BLE MR.PRAKASH TATIA,J.

Mr.Shailendra Kalla, for the petitioner.
Mr.BK Bhatnagar, for the respondents.

<><><>

Heard learned counsel for the parties.

The petitioner filed one petition under Guardians and Wards Act for custody of her one minor daughter Riya, which is pending in the Family Court, Jaipur.

According to the petitioner, her another daughter Mahima was murdered by the non-applicants on 10th July, 2004 and for which she lodged FIR under Sections 498A and 304B IPC, upon which after investigation, challan has been filed by the police. She submits that her another daughter is of the age of 19 years and she is in custody of the respondents. She is residing at Jodhpur about more than 300 kms away from Jaipur where the petitioner's petition is pending. She submits that she has a reasonable apprehension from the respondents and she also cannot travel to Jaipur to pursue the case for custody of her daughter whereas the respondents can well attend the court at Jodhpur.

Learned counsel for the respondents submitted that the said case

has been fixed for framing of the issues and the applicant virtually is not coming to the court at Jaipur. Therefore, mere on the basis of false allegations, the case which has been filed by the petitioner herself at Jaipur may not be transferred to the court at Jodhpur.

I considered the submissions of learned counsel for the parties and perused the facts of the case.

It is not in dispute that petitioner herself has filed the petition for custody of her daughter against the non-petitioners at Jaipur, but at the same time, there are serious allegations of murder of her daughter by the respondents wherein challan has been filed by the police.

Looking to the totality of the facts and allegations, it will be appropriate to transfer the petition no.71/2004 pending at Family Court, Jaipur to the Family Court, Jodhpur.

Therefore, this transfer petition is allowed and the petition no.71/2004- Smt. Padama Vs. Arvind Solanki & Ors. pending in Family Court, Jaipur is hereby withdrawn from that court and is hereby transferred to the Family Court, Jodhpur for deciding in accordance with law. The Family Court, Jodhpur is requested to decide the petition expeditiously. Both the parties are directed to remain present before the Family Court, Jodhpur on 1st Nov., 2006.

(PRAKASH TATIA), J.

c.p.goyal/-